

# 34CFR303 -- Regulations for the Early Intervention Program for Infants and Toddlers With Disabilities, Subparts A, B, and C (Part C of IDEA)

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## Pt. 303

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with State and local funds, the SEA may reallocate any portion of the funds under section 619 of the Act that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas they serve.

(b) If a State provides services to preschool children with disabilities because some or all LEAs and ESAs are unable or unwilling to provide appropriate programs, the SEA may use payments that would have been available to those LEAs or ESAs to provide special education and related services to children with disabilities aged 3 through 5 years, and to two-year-old children with disabilities receiving services consistent with § 301.1 who are residing in the area served by those LEAs and ESAs.

(Authority: 20 U.S.C. 1414(d), 1419(g)(2))

## PART 303—EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES

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AUTHORITY: 20 U.S.C. 1431-1445 unless otherwise noted

SOURCE: 58 FR 40959, July 30, 1993 unless otherwise noted

EDITORIAL NOTE: Nomenclature changes to part 303 appear at 63 FR 18293, Apr. 14, 1998

### Subpart A—General

#### PURPOSE, ELIGIBILITY, AND OTHER GENERAL PROVISIONS

#### § 303.1 Purpose of the early intervention program for infants and toddlers with disabilities.

The purpose of this part is to provide financial assistance to States to—

(a) Maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

(b) Facilitate the coordination of payment for early intervention services from Federal, State, local and private sources (including public and private insurance coverage);

(c) Enhance the States' capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

(d) Enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations particularly minority low-in-

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come, inner-city and rural populations.

(Authority: 20 U.S.C. 1431)

[58 FR 40959, July 30, 1993 as amended at 63 FR 18293, Apr. 14, 1998; 64 FR 12535, Mar. 12, 1999]

#### § 303.2 Eligible recipients of an award.

Eligible recipients include the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, the Secretary of the Interior, and the following jurisdictions: Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands.

(Authority: 20 U.S.C. 1401(27), 1443)

[58 FR 40959, July 30, 1993 as amended at 63 FR 18293, Apr. 14, 1998]

#### § 303.3 Activities that may be supported under this part.

Funds under this part may be used for the following activities:

(a) To maintain and implement a statewide system of early intervention services for children eligible under this part and their families.

(b) For direct services for eligible children and their families that are not otherwise provided from other public or private sources.

(c) To expand and improve on services for eligible children and their families that are otherwise available, consistent with § 303.527.

(d) To provide a free appropriate public education in accordance with part B of the Act, to children with disabilities from their third birthday to the beginning of the following school year.

(e) To strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purpose of—

(1) Identifying and evaluating at-risk infants and toddlers;

(2) Making referrals of the infants and toddlers identified and evaluated under paragraph (e)(1) of this section; and

(3) Conducting periodic follow-up on each referral under paragraph (e)(2) of this section to determine if the status

of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.

(Authority: 20 U.S.C. 1433 and 1438)

[58 FR 40959, July 30, 1993, as amended at 63 FR 18293, Apr. 14, 1998]

#### § 303.4 Limitation on eligible children.

This part 303 does not apply to any child with disabilities receiving a free appropriate public education, in accordance with 34 CFR part 300 with funds received under 34 CFR part 301.

(Authority: 20 U.S.C. 1419(h))

#### § 303.5 Applicable regulations.

(a) The following regulations apply to this part:

(1) The Education Department General Administrative Regulations (EDGAR), including—

(i) Part 76 (State Administered Programs) except for § 76.103;

(ii) Part 77 (Definitions that Apply to Department Regulations);

(iii) Part 79 (Intergovernmental Review of Department of Education Programs and Activities);

(iv) Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments);

(v) Part 81 (Grants and Cooperative Agreements under the General Education Provisions Act—Enforcement);

(vi) Part 82 (New Restrictions on Lobbying); and

(vii) Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Work Place (Grants)).

(2) The regulations in this part 303.

(3) The following regulations in 34 CFR part 300 (Assistance to States for the Education of Children with Disabilities Program): §§ 300.560–300.577 and §§ 300.580–300.585.

(b) In applying the regulations cited in paragraphs (a)(1) and (a)(3) of this section, any reference to—

(1) *State educational agency* means the lead agency under this part;

(2) *Special education, related services, free appropriate public education, free public education, or education* means

early intervention services under this part;

(3) *Participating agency*, when used in reference to a local educational agency or an intermediate educational agency, means a local service provider under this part;

(4) *Section 300.128* means §§ 303.164 and 303.321; and

(5) *Section 300.129* means § 303.460.

(Authority: 20 U.S.C. 1401, 1416, 1417)

[58 FR 40959, July 30, 1993, as amended at 63 FR 18294, Apr. 14, 1998; 64 FR 12535, Mar. 12, 1999]

#### DEFINITIONS

NOTE: Sections 303.6–303.24 contain definitions, including a definition of "natural environments" in § 303.18, that are used throughout these regulations. Other terms are defined in the specific subparts in which they are used. Below is a list of those terms and the specific sections in which they are defined:

Appropriate professional requirements in the State (§ 303.361(a)(1))  
 Assessment (§ 303.322(b)(2))  
 Consent (§ 303.401(a))  
 Evaluation (§ 303.322(b)(1))  
 Frequency and intensity (§ 303.344(d)(2)(i))  
 Highest requirements in the State applicable to a profession or discipline (§ 303.361(a)(2))  
 Individualized family service plan and IFSP (§ 303.340(b))  
 Impartial (§ 303.421(b))  
 Location (§ 303.344(d)(3))  
 Method (§ 303.344(d)(2)(ii))  
 Native language (§ 303.401(b))  
 Personally identifiable (§ 303.401(c))  
 Primary referral sources (§ 303.321(d)(3))  
 Profession or discipline (§ 303.361(a)(3))  
 Special definition of "aggregate amount" (§ 303.200(b)(1))  
 Special definition of infants and toddlers (§ 303.200(b)(2))  
 Special definition of State (§ 303.200(b)(3))  
 State approved or recognized certification, licensing, registration, or other comparable requirements (§ 303.361(a)(4))

#### § 303.6 Act.

As used in this part, *Act* means the Individuals with Disabilities Education Act.

(Authority: 20 U.S.C. 1400)

#### § 303.7 Children.

As used in this part, *children* means infants and toddlers with disabilities as that term is defined in § 303.16.

(Authority: 20 U.S.C. 1432(5))

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### § 303.8 Council.

As used in this part, *Council* means the State Interagency Coordinating Council.

(Authority: 20 U.S.C. 1432(2))

### § 303.9 Days.

As used in this part, *days* means calendar days.

(Authority: 20 U.S.C. 1431-1445)

### § 303.10 Developmental delay.

As used in this part, *developmental delay*, when used with respect to an individual residing in a State, has the meaning given to that term under § 303.300.

(Authority: 20 U.S.C. 1432(3))

[64 FR 12535 Mar 12 1999]

### § 303.11 Early intervention program.

As used in this part, *early intervention program* means the total effort in a State that is directed at meeting the needs of children eligible under this part and their families.

(Authority: 20 U.S.C. 1431-1445)

### § 303.12 Early intervention services.

(a) *General.* As used in this part, *early intervention services* means services that—

(1) Are designed to meet the developmental needs of each child eligible under this part and the needs of the family related to enhancing the child's development;

(2) Are selected in collaboration with the parents;

(3) Are provided—

(i) Under public supervision;

(ii) By *qualified* personnel, as defined in § 303.21, including the types of personnel listed in paragraph (e) of this section;

(iii) In conformity with an individualized family service plan; and

(iv) At no cost, unless, subject to § 303.520(b)(3) Federal or State law provides for a system of payments by families including a schedule of sliding fees; and

(4) Meet the standards of the State, including the requirements of this part.

(b) *Natural environments.* To the maximum extent appropriate to the needs of the child, early intervention services must be provided in natural environments, including the home and community settings in which children without disabilities participate.

(c) *General role of service providers.* To the extent appropriate, service providers in each area of early intervention services included in paragraph (d) of this section are responsible for—

(1) Consulting with parents, other service providers, and representatives of appropriate community agencies to ensure the effective provision of services in that area;

(2) Training parents and others regarding the provision of those services; and

(3) Participating in the multidisciplinary team's assessment of a child and the child's family, and in the development of integrated goals and outcomes for the individualized family service plan.

(d) *Types of services; definitions.* Following are types of services included under 'early intervention services,' and, if appropriate, definitions of those services:

(1) *Assistive technology device* means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized that is used to increase, maintain, or improve the functional capabilities of children with disabilities. *Assistive technology service* means a service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology services include—

(i) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(ii) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(iii) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(iv) Coordinating and using other therapies, interventions, or services with assistive technology devices such

as those associated with existing education and rehabilitation plans and programs;

(v) Training or technical assistance for a child with disabilities or, if appropriate, that child's family; and

(vi) Training or technical assistance for professionals (including individuals providing early intervention services) or other individuals who provide services to or are otherwise substantially involved in the major life functions of individuals with disabilities.

(2) *Audiology* includes—

(i) Identification of children with auditory impairment, using at risk criteria and appropriate audiologic screening techniques;

(ii) Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;

(iii) Referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairment;

(iv) Provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services;

(v) Provision of services for prevention of hearing loss; and

(vi) Determination of the child's need for individual amplification, including selecting, fitting and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

(3) *Family training, counseling, and home visits* means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of a child eligible under this part in understanding the special needs of the child and enhancing the child's development.

(4) *Health services* (See § 303.13).

(5) *Medical services only for diagnostic or evaluation purposes* means services provided by a licensed physician to determine a child's developmental status and need for early intervention services.

(6) *Nursing services* includes—

(i) The assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems;

(ii) Provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and

(iii) Administration of medications, treatments, and regimens prescribed by a licensed physician.

(7) *Nutrition services* includes—

(i) Conducting individual assessments in—

(A) Nutritional history and dietary intake;

(B) Anthropometric, biochemical and clinical variables;

(C) Feeding skills and feeding problems; and

(D) Food habits and food preferences;

(ii) Developing and monitoring appropriate plans to address the nutritional needs of children eligible under this part based on the findings in paragraph (d)(7)(i) of this section; and

(iii) Making referrals to appropriate community resources to carry out nutrition goals.

(8) *Occupational therapy* includes services to address the functional needs of a child related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school and community settings and include—

(i) Identification, assessment, and intervention;

(ii) Adaptation of the environment, and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and

(iii) Prevention or minimization of the impact of initial or future impairment, delay in development or loss of functional ability.

(9) *Physical therapy* includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include—

(i) Screening, evaluation, and assessment of infants and toddlers to identify movement dysfunction;

(ii) Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and

(iii) Providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems

(10) *Psychological services* includes—

(i) Administering psychological and developmental tests and other assessment procedures;

(ii) Interpreting assessment results;

(iii) Obtaining, integrating, and interpreting information about child behavior, and child and family conditions related to learning, mental health and development; and

(iv) Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

(11) *Service coordination services* means assistance and services provided by a service coordinator to a child eligible under this part and the child's family that are in addition to the functions and activities included under § 303.23.

(12) *Social work services* includes—

(i) Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;

(ii) Preparing a social or emotional developmental assessment of the child within the family context;

(iii) Providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the child and parents;

(iv) Working with those problems in a child's and family's living situation (home, community, and any center where early intervention services are provided) that affect the child's maximum utilization of early intervention services; and

(v) Identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services

(13) *Special instruction* includes—

(i) The design of learning environments and activities that promote the child's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;

(ii) Curriculum planning, including the planned interaction of personnel, materials and time and space that leads to achieving the outcomes in the child's individualized family service plan;

(iii) Providing families with information, skills, and support related to enhancing the skill development of the child; and

(iv) Working with the child to enhance the child's development.

(14) *Speech-language pathology* includes—

(i) Identification of children with communicative or oropharyngeal disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;

(ii) Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oropharyngeal disorders and delays in development of communication skills; and

(iii) Provision of services for the habilitation, rehabilitation, or prevention of communicative or oropharyngeal disorders and delays in development of communication skills.

(15) *Transportation and related costs* includes the cost of travel (e.g., mileage, or travel by taxi, common carrier or other means) and other costs (e.g., tolls and parking expenses) that are necessary to enable a child eligible under this part and the child's family to receive early intervention services

(16) *Vision services* means—

(i) Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities;

(ii) Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and

(iii) Communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities

(e) *Qualified personnel.* Early intervention services must be provided by qualified personnel including—

- (1) Audiologists;
- (2) Family therapists;
- (3) Nurses;
- (4) Nutritionists;
- (5) Occupational therapists;
- (6) Orientation and mobility specialists;
- (7) Pediatricians and other physicians;
- (8) Physical therapists;
- (9) Psychologists;
- (10) Social workers;
- (11) Special educators; and
- (12) Speech and language pathologists

(Authority: 20 U.S.C. 1401(1) and (2); 1432(4))

NOTE: The lists of services in paragraph (d) and qualified personnel in paragraph (e) of this section are not exhaustive. Early intervention services may include such services as the provision of respite and other family support services. Qualified personnel may include such personnel as vision specialists, paraprofessionals, and parent-to-parent support personnel.

[58 FR 40959, July 30, 1993, as amended at 63 FR 18294, Apr. 14, 1998; 64 FR 12535, Mar. 12, 1999]

### § 303.13 Health services.

(a) As used in this part, *health services* means services necessary to enable a child to benefit from the other early intervention services under this part during the time that the child is receiving the other early intervention services.

(b) The term includes—

(1) Such services as clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags and other health services; and

(2) Consultation by physicians with other service providers concerning the special health care needs of eligible children that will need to be addressed in the course of providing other early intervention services.

(c) The term does not include the following:

- (i) Services that are—
  - (i) Surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus); or
  - (ii) Purely medical in nature (such as hospitalization for management of con-

genital heart ailments, or the prescribing of medicine or drugs for any purpose).

(2) Devices necessary to control or treat a medical condition.

(3) Medical health services (such as immunizations and regular “well-baby” care) that are routinely recommended for all children.

(Authority: 20 U.S.C. 1432(4))

NOTE: The definition in this section distinguishes between the health services that are required under this part and the medical health services that are not required. The IFSP requirements in subpart D of this part provide that, to the extent appropriate, these other medical health services are to be included in the IFSP along with the funding sources to be used in paying for the services or the steps that will be taken to secure the services through public or private sources. Identifying these services in the IFSP does not impose an obligation to provide the services if they are otherwise not required to be provided under this part. (See § 303.344(e) and the note 3 following that section.)

### § 303.14 IFSP.

As used in this part, *IFSP* means the individualized family service plan, as that term is defined in § 303.340(b).

(Authority: 20 U.S.C. 1436)

### § 303.15 Include; including.

As used in this part, *include* or *including* means that the items named are not all of the possible items that are covered whether like or unlike the ones named.

(Authority: 20 U.S.C. 1431-1445)

### § 303.16 Infants and toddlers with disabilities.

(a) As used in this part, *infants and toddlers with disabilities* means individuals from birth through age two who need early intervention services because they—

(1) Are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

- (i) Cognitive development.
- (ii) Physical development including vision and hearing.
- (iii) Communication development.
- (iv) Social or emotional development.
- (v) Adaptive development; or

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(2) Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(b) The term may also include, at a State's discretion, children from birth through age two who are at risk of having substantial developmental delays if early intervention services are not provided

(Authority: 20 U.S.C. 1432(5))

NOTE 1: The phrase "a diagnosed physical or mental condition that has a high probability of resulting in developmental delay," as used in paragraph (a)(2) of this section, applies to a condition if it typically results in developmental delay. Examples of these conditions include chromosomal abnormalities; genetic or congenital disorders; severe sensory impairments, including hearing and vision; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; disorders secondary to exposure to toxic substances, including fetal alcohol syndrome; and severe attachment disorders.

NOTE 2: With respect to paragraph (b) of this section, children who are at risk may be eligible under this part if a State elects to extend services to that population even though they have not been identified as disabled.

Under this provision, States have the authority to define who would be "at risk of having substantial developmental delays if early intervention services are not provided." In defining the "at risk" population, States may include well-known biological and environmental factors that can be identified and that place infants and toddlers "at risk" for developmental delay. Commonly cited factors include low birth weight, respiratory distress as a newborn, lack of oxygen, brain hemorrhage, infection, nutritional deprivation, and a history of abuse or neglect. It should be noted that "at risk" factors do not predict the presence of a barrier to development, but they may indicate children who are at higher risk of developmental delay than children without these problems.

## § 303.17 Multidisciplinary

As used in this part, *multidisciplinary* means the involvement of two or more disciplines or professions in the provision of integrated and coordinated services, including evaluation and assessment activities in § 303.322 and development of the IFSP in § 303.342

(Authority: 20 U.S.C. 1435(a)(3), 1436(a))

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## § 303.18 Natural environments.

As used in this part, *natural environments* means settings that are natural or normal for the child's age peers who have no disabilities.

(Authority: 20 U.S.C. 1435 and 1436)

[63 FR 18294, Apr. 14, 1998]

## § 303.19 Parent.

(a) *General* As used in this part, "parent" means—

(1) A natural or adoptive parent of a child;

(2) A guardian;

(3) A person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare); or

(4) A surrogate parent who has been assigned in accordance with § 303.406.

(b) *Foster parent.* Unless State law prohibits a foster parent from acting as a parent, a State may allow a foster parent to act as a parent under Part C of the Act if—

(1) The natural parents' authority to make the decisions required of parents under the Act has been extinguished under State law; and

(2) The foster parent—

(i) Has an ongoing long-term parental relationship with the child;

(ii) Is willing to make the decisions required of parents under the Act; and

(iii) Has no interest that would conflict with the interests of the child.

(Authority: 20 U.S.C. 1401(19), 1431-1445)

[64 FR 12535, Mar. 12, 1999]

## § 303.20 Policies

(a) As used in this part, *policies* means State statutes, regulations, Governor's orders, directives by the lead agency, or other written documents that represent the State's position concerning any matter covered under this part.

(b) State policies include—

(1) A State's commitment to maintain the statewide system (see § 303.140);

(2) A State's eligibility criteria and procedures (see § 303.300);

(3) A statement that, consistent with § 303.520(b), provides that services under this part will be provided at no cost to

parents, except where a system of payments is provided for under Federal or State law

(4) A State's standards for personnel who provide services to children eligible under this part (see § 303.361);

(5) A State's position and procedures related to contracting or making other arrangements with service providers under subpart F of this part; and

(6) Other positions that the State has adopted related to implementing any of the other requirements under this part.

(Authority: 20 U.S.C. 1431-1445)

[58 FR 40959, July 30, 1993. Redesignated and amended at 63 FR 18294 Apr. 14, 1998]

#### § 303.21 Public agency.

As used in this part, *public agency* includes the lead agency and any other political subdivision of the State that is responsible for providing early intervention services to children eligible under this part and their families.

(Authority: 20 U.S.C. 1431-1445)

[58 FR 40959, July 30, 1993. Redesignated at 63 FR 18294 Apr. 14, 1998]

#### § 303.22 Qualified.

As used in this part, *qualified* means that a person has met State approved or recognized certification, licensing, registration or other comparable requirements that apply to the area in which the person is providing early intervention services.

(Authority: 20 U.S.C. 1432(4))

NOTE: These regulations contain the following provisions relating to a State's responsibility to ensure that personnel are qualified to provide early intervention services:

1. Section 303.12(a)(4) provides that early intervention services must meet State standards. This provision implements a requirement that is similar to a longstanding provision under part B of the Act (i.e., that the State educational agency establish standards and ensure that those standards are currently met for all programs providing special education and related services).

2. Section 303.12(a)(3)(ii) provides that early intervention services must be provided by qualified personnel.

3. Section 303.361(b) requires statewide systems to have policies and procedures relating to personnel standards.

[58 FR 40959, July 30, 1993. Redesignated at 63 FR 18294 Apr. 14, 1998]

#### § 303.23 Service coordination (case management).

(a) *General.* (1) As used in this part except in § 303.12(d)(11) *service coordination* means the activities carried out by a service coordinator to assist and enable a child eligible under this part and the child's family to receive the rights, procedural safeguards, and services that are authorized to be provided under the State's early intervention program.

(2) Each child eligible under this part and the child's family must be provided with one service coordinator who is responsible for—

(i) Coordinating all services across agency lines; and

(ii) Serving as the single point of contact in helping parents to obtain the services and assistance they need.

(3) Service coordination is an active, ongoing process that involves—

(i) Assisting parents of eligible children in gaining access to the early intervention services and other services identified in the individualized family service plan;

(ii) Coordinating the provision of early intervention services and other services (such as medical services for other than diagnostic and evaluation purposes) that the child needs or is being provided;

(iii) Facilitating the timely delivery of available services; and

(iv) Continuously seeking the appropriate services and situations necessary to benefit the development of each child being served for the duration of the child's eligibility.

(b) *Specific service coordination activities.* Service coordination activities include—

(1) Coordinating the performance of evaluations and assessments;

(2) Facilitating and participating in the development, review, and evaluation of individualized family service plans;

(3) Assisting families in identifying available service providers;

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(4) Coordinating and monitoring the delivery of available services;

(5) Informing families of the availability of advocacy services;

(6) Coordinating with medical and health providers; and

(7) Facilitating the development of a transition plan to preschool services, if appropriate

(c) *Employment and assignment of service coordinators.* (1) Service coordinators may be employed or assigned in any way that is permitted under State law, so long as it is consistent with the requirements of this part

(2) A State's policies and procedures for implementing the statewide system of early intervention services must be designed and implemented to ensure that service coordinators are able to effectively carry out on an interagency basis the functions and services listed under paragraphs (a) and (b) of this section.

(d) *Qualifications of service coordinators.* Service coordinators must be persons who, consistent with § 303.344(g) have demonstrated knowledge and understanding about—

(1) Infants and toddlers who are eligible under this part;

(2) Part C of the Act and the regulations in this part; and

(3) The nature and scope of services available under the State's early intervention program, the system of payments for services in the State and other pertinent information.

(Authority: 20 U.S.C. 1432(4))

NOTE 1: If States have existing service coordination systems, the States may use or adapt those systems, so long as they are consistent with the requirements of this part.

NOTE 2: The legislative history of the 1991 amendments to the Act indicates that the use of the term "service coordination" was not intended to affect the authority to seek reimbursement for services provided under Medicaid or any other legislation that makes reference to "case management" services. See H.R. Rep. No. 198, 102d Cong., 1st Sess. 12 (1991); S. Rep. No. 84, 102d Cong., 1st Sess. 20 (1991).

[58 FR 40959, July 30, 1993. Redesignated at 63 FR 18294, Apr. 14, 1998.]

### § 303.24 State.

Except as provided in § 303.200(b)(3), *State* means each of the 50 States, the Commonwealth of Puerto Rico, the

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District of Columbia, and the jurisdictions of Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands.

(Authority: 20 U.S.C. 1401(27))

[58 FR 40959, July 30, 1993. Redesignated and amended at 63 FR 18294, Apr. 14, 1998.]

### § 303.25 EDGAR definitions that apply.

The following terms used in this part are defined in 34 CFR 77.1:

Applicant  
Award  
Contract  
Department  
EDGAR  
Fiscal year  
Grant  
Grantee  
Grant period  
Private  
Public  
Secretary

(Authority: 20 U.S.C. 1431-1445)

[58 FR 40959, July 30, 1993. Redesignated at 63 FR 18294, Apr. 14, 1998.]

## Subpart B—State Application for a Grant

### GENERAL REQUIREMENTS

### § 303.100 Conditions of assistance

(a) In order to receive funds under this part for any fiscal year, a State must have—

(1) An approved application that contains the information required in this part, including—

(i) The information required in §§ 303.140 through 303.148; and

(ii) The information required in §§ 303.161 through 303.176; and

(2) The statement of assurances required under §§ 303.120 through 303.128, on file with the Secretary.

(b) If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets an application requirement, including any policy or procedure filed under this part before July 1, 1998, that meets such a requirement, the Secretary considers the State to have met that requirement for purposes of receiving a grant under this part.

(c) An application that meets the requirements of this part remains in

zeffect until the State submits to the Secretary modifications of that application.

(d) The Secretary may require a State to modify its application under this part to the extent necessary to ensure the State's compliance with this part if—

(1) An amendment is made to the Act, or to a regulation under this part;

(2) A new interpretation is made of the Act by a Federal court or the State's highest court; or

(3) An official finding of noncompliance with Federal law or regulations is made with respect to the State

(Authority: 20 U.S.C. 1434 and 1437)

[63 FR 18294, Apr. 14, 1998 as amended at 64 FR 12535 Mar 12 1999]

**§ 303.101 How the Secretary disapproves a State's application or statement of assurances.**

The Secretary follows the procedures in 34 CFR 300.581 through 300.586 before disapproving a State's application or statement of assurances submitted under this part.

(Authority: 20 U.S.C. 1437)

**PUBLIC PARTICIPATION**

**§ 303.110 General requirements and timelines for public participation**

(a) Before submitting to the Secretary its application under this part, and before adopting a new or revised policy that is not in its current application, a State shall—

(1) Publish the application or policy in a manner that will ensure circulation throughout the State for at least a 60-day period, with an opportunity for comment on the application or policy for at least 30 days during that period;

(2) Hold public hearings on the application or policy during the 60-day period required in paragraph (a)(1) of this section; and

(3) Provide adequate notice of the hearings required in paragraph (a)(2) of this section at least 30 days before the dates that the hearings are conducted.

(b) A State may request the Secretary to waive compliance with the timelines in paragraph (a) of this section. The Secretary grants the request if the State demonstrates that—

(1) There are circumstances that would warrant such an exception; and

(2) The timelines that will be followed provide an adequate opportunity for public participation and comment

(Authority: 20 U.S.C. 1437(a)(3))

**§ 303.111 Notice of public hearings and opportunity to comment.**

The notice required in § 303.110(a)(3) must—

(a) Be published in newspapers or announced in other media or both, with coverage adequate to notify the general public including individuals with disabilities and parents of infants and toddlers with disabilities, throughout the State about the hearings and opportunity to comment on the application or policy; and

(b) Be in sufficient detail to inform the public about—

(1) The purpose and scope of the State application or policy, and its relationship to part C of the Act;

(2) The length of the comment period and the date, time and location of each hearing; and

(3) The procedures for providing oral comments or submitting written comments

(Authority: 20 U.S.C. 1437(a)(7))

[58 FR 40959, July 30, 1993 as amended at 63 FR 18294 Apr 14 1998]

**§ 303.112 Public hearings.**

Each State shall hold public hearings in a sufficient number and at times and places that afford interested parties throughout the State a reasonable opportunity to participate.

(Authority: 20 U.S.C. 1437(a)(7))

**§ 303.113 Reviewing public comments received.**

(a) *Review of comments.* Before adopting its application, and before the adoption of a new or revised policy not in the application the lead agency shall—

(1) Review and consider all public comments; and

(2) Make any modifications it deems necessary in the application or policy.

(b) *Submission to the Secretary.* In submitting the State's application or policy to the Secretary the lead agency shall include copies of news releases

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advertisements, and announcements used to provide notice to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities

(Authority: 20 U.S.C. 1437(a)(7))

[58 FR 40959, July 30, 1993 as amended at 63 FR 18294 Apr 14 1998]

### STATEMENT OF ASSURANCES

#### § 303.120 General.

(a) A State's statement of assurances must contain the information required in §§ 303.121 through 303.128.

(b) Unless otherwise required by the Secretary the statement is submitted only once and remains in effect throughout the term of a State's participation under this part.

(c) A State may submit a revised statement of assurances if the statement is consistent with the requirements in §§ 303.121 through 303.128.

(Authority: 20 U.S.C. 1437(b))

#### § 303.121 Reports and records

The statement must provide for—

(a) Making reports in such form and containing such information as the Secretary may require; and

(b) Keeping such records and affording such access to those records as the Secretary may find necessary to assure compliance with the requirements of this part, the correctness and verification of reports, and the proper disbursement of funds provided under this part.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(b)(4))

#### § 303.122 Control of funds and property.

The statement must provide assurance satisfactory to the Secretary that—

(a) The control of funds provided under this part, and title to property acquired with those funds, will be in a public agency for the uses and purposes provided in this part; and

(b) A public agency will administer the funds and property.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(b)(3))

#### § 303.123 Prohibition against commingling.

The statement must include an assurance satisfactory to the Secretary that funds made available under this part will not be commingled with State funds.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(b)(5)(A))

NOTE: As used in this part, *commingle* means depositing or recording funds in a general account without the ability to identify each specific source of funds for any expenditure. Under that general definition it is clear that commingling is prohibited. However, to the extent that the funds from each of a series of Federal, State, local, and private funding sources can be identified—with a clear audit trail for each source—it is appropriate for those funds to be consolidated for carrying out a common purpose. In fact, a State may find it essential to set out a funding plan that incorporates, and accounts for, all sources of funds that can be targeted on a given activity or function related to the State's early intervention program.

Thus the assurance in this section is satisfied by the use of an accounting system that includes an 'audit trail' of the expenditure of funds awarded under this part. Separate bank accounts are not required.

#### § 303.124 Prohibition against supplanting.

(a) The statement must include an assurance satisfactory to the Secretary that Federal funds made available under this part will be used to supplement the level of State and local funds expended for children eligible under this part and their families and in no case to supplant those State and local funds.

(b) To meet the requirement in paragraph (a) of this section, the total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under this part and their families must be at least equal to the total amount of State and local

funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Allowance may be made for—

(1) Decreases in the number of children who are eligible to receive early intervention services under this part; and

(2) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of facilities

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(b)(5)(B))

[58 FR 40959, July 30, 1993, as amended at 63 FR 18294, Apr. 14, 1998]

#### § 303.125 Fiscal control.

The statement must provide assurance satisfactory to the Secretary that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for Federal funds paid under this part.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(b)(6))

#### § 303.126 Payor of last resort.

The statement must include an assurance satisfactory to the Secretary that the State will comply with the provisions in § 303.527, including the requirements on—

- (a) Nonsubstitution of funds; and
- (b) Non-reduction of other benefits

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(b)(2))

#### § 303.127 Assurance regarding expenditure of funds.

The statement must include an assurance satisfactory to the Secretary that the funds paid to the State under this part will be expended in accordance with the provisions of this part including the requirements in § 303.3

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(b)(1))

#### § 303.128 Traditionally underserved groups.

The statement must include an assurance satisfactory to the Secretary that policies and practices have been adopted to ensure—

(a) That traditionally underserved groups, including minority low-income and rural families, are meaningfully involved in the planning and implementation of all the requirements of this part; and

(b) That these families have access to culturally competent services within their local geographical areas.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(b)(7))

#### GENERAL REQUIREMENTS FOR A STATE APPLICATION

#### § 303.140 General.

A State's application under this part must contain information and assurances demonstrating to the satisfaction of the Secretary that—

(a) The statewide system of early intervention services required in this part is in effect; and

(b) A State policy is in effect that ensures that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State

(Authority: 20 U.S.C. 1434 and 1435(a)(2))

[63 FR 18294, Apr. 14, 1998, as amended at 64 FR 12535, Mar. 12, 1999]

#### § 303.141 Information about the Council.

Each application must include information demonstrating that the State has established a State Interagency Coordinating Council that meets the requirements of subpart G of this part.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(a)(3))

#### § 303.142 Designation of lead agency.

Each application must include a designation of the lead agency in the

### § 303.143

State that will be responsible for the administration of funds provided under this part.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(a)(1))

### § 303.143 Designation regarding financial responsibility.

Each application must include a designation by the State of an individual or entity responsible for assigning financial responsibility among appropriate agencies.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(a)(2))

### § 303.144 Assurance regarding use of funds.

Each application must include an assurance that funds received under this part will be used to assist the State to maintain and implement the statewide system required under subparts D through F of this part.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1475, 1437(a)(3))

[58 FR 40959, July 30, 1993, as amended at 63 FR 18294, Apr. 14, 1998]

### § 303.145 Description of use of funds.

(a) *General.* Each application must include a description of how a State proposes to use its funds under this part for the fiscal year or years covered by the application. The description must be presented separately for the lead agency and the Council, and include the information required in paragraphs (b) through (e) of this section.

(b) *Administrative positions.* Each application must include—

(1) A list of administrative positions, with salaries, and a description of the duties for each person whose salary is paid in whole or in part with funds awarded under this part; and

(2) For each position, the percentage of salary paid with those funds.

(c) *Maintenance and implementation activities.* Each application must include—

(1) A description of the nature and scope of each major activity to be carried out under this part in maintaining

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and implementing the statewide system of early intervention services; and

(2) The approximate amount of funds to be spent for each activity.

(d) *Direct services.* (1) Each application must include a description of any direct services that the State expects to provide to eligible children and their families with funds under this part, including a description of any services provided to at-risk infants and toddlers as defined in § 303.16(b), and their families, consistent with §§ 303.521 and 303.527.

(2) The description must include information about each type of service to be provided including—

(i) A summary of the methods to be used to provide the service (e.g. contracts or other arrangements with specified public or private organizations); and

(ii) The approximate amount of funds under this part to be used for the service.

(e) *At-risk infants and toddlers.* For any State that does not provide direct services for at-risk infants and toddlers described in paragraph (d)(1) of this section but chooses to use funds as described in § 303.3(e), each application must include a description of how those funds will be used.

(f) *Activities by other agencies.* If other agencies are to receive funds under this part, the application must include—

(1) The name of each agency expected to receive funds;

(2) The approximate amount of funds each agency will receive; and

(3) A summary of the purposes for which the funds will be used.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(a)(3) and (a)(5))

[58 FR 40959, July 30, 1993, as amended at 63 FR 18294, Apr. 14, 1998; 64 FR 12535, Mar. 12, 1999]

### § 303.146 Information about public participation.

Each application must include the information on public participation that is required in § 303.113(b).

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(a)(7))

**§ 303.147 Services to all geographic areas.**

Each application must include a description of the procedure used to ensure that resources are made available under this part for all geographic areas within the State.

(Authority: 20 U.S.C. 1437(a)(6))

[63 FR 18294 Apr 14 1998]

**§ 303.148 Transition to preschool programs.**

Each application must include a description of the policies and procedures to be used to ensure a smooth transition for children receiving early intervention services under this part to preschool or other appropriate services including—

(a) A description of how the families will be included in the transition plans;

(b) A description of how the lead agency under this part will—

(1) Notify the local educational agency for the area in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B of the Act, as determined in accordance with State law;

(2)(i) In the case of a child who may be eligible for preschool services under Part B of the Act with the approval of the family of the child convene a conference among the lead agency, the family, and the local educational agency at least 90 days and at the discretion of the parties, up to 6 months, before the child is eligible for the preschool services, to discuss any services that the child may receive; or

(ii) In the case of a child who may not be eligible for preschool services under Part B of the Act with the approval of the family make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under Part B, to discuss the appropriate services that the child may receive;

(3) Review the child's program options for the period from the child's third birthday through the remainder of the school year; and

(4) Establish a transition plan; and

(c) If the State educational agency, which is responsible for administering preschool programs under part B of the Act, is not the lead agency under this part, an interagency agreement between the two agencies to ensure coordination on transition matters

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(a)(8))

NOTE: Among the matters that should be considered in developing policies and procedures to ensure a smooth transition of children from one program to the other are the following:

- The financial responsibilities of all appropriate agencies.
- The responsibility for performing evaluations of children
- The development and implementation of an individualized education program ("IEP") or an individualized family service plan ("IFSP") for each child, consistent with the requirements of law (see § 303.344(h) and sections 612(a)(9) of the Act).
- The coordination of communication between agencies and the child's family.
- The mechanisms to ensure the uninterrupted provision of appropriate services to the child.

[58 FR 40959, July 30, 1993 as amended at 63 FR 18294, Apr 14 1998]

#### COMPONENTS OF A STATEWIDE SYSTEM— APPLICATION REQUIREMENTS

**§ 303.160 Minimum components of a statewide system.**

Each application must address the minimum components of a statewide system of coordinated, comprehensive, multidisciplinary, interagency programs providing appropriate early intervention services to all infants and toddlers with disabilities and their families including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State. The minimum components of a statewide system are described in §§ 303.161 through 303.176

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a), 1437(a)(9))

[58 FR 40959, July 30, 1993 as amended at 63 FR 18295 Apr 14 1998]

## § 303.161

### § 303.161 State definition of developmental delay.

Each application must include the State's definition of "developmental delay" as described in § 303.300.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(1))

### § 303.162 Central directory.

Each application must include information and assurances demonstrating to the satisfaction of the Secretary that the State has developed a central directory of information that meets the requirements in § 303.301.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(7))

### § 303.163 [Reserved]

### § 303.164 Public awareness program.

Each application must include information and assurances demonstrating to the satisfaction of the Secretary that the State has established a public awareness program that meets the requirements in § 303.320.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(6))

### § 303.165 Comprehensive child find system.

Each application must include—

(a) The policies and procedures required in § 303.321(b);

(b) Information demonstrating that the requirements on coordination in § 303.321(c) are met;

(c) The referral procedures required in § 303.321(d), and either—

(1) A description of how the referral sources are informed about the procedures; or

(2) A copy of any memorandum or other document used by the lead agency to transmit the procedures to the referral sources; and

(d) The timelines in § 303.321(e)

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(5))

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### § 303.166 Evaluation, assessment, and nondiscriminatory procedures.

Each application must include information to demonstrate that the requirements in §§ 303.322 and 303.323 are met.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(3); 1436(a)(1)(d)(2), and (d)(3))

### § 303.167 Individualized family service plans.

Each application must include—

(a) An assurance that a current IFSP is in effect and implemented for each eligible child and the child's family;

(b) Information demonstrating that—

(1) The State's procedures for developing, reviewing, and evaluating IFSPs are consistent with the requirements in §§ 303.340, 303.342, 303.343 and 303.345; and

(2) The content of IFSPs used in the State is consistent with the requirements in § 303.344; and

(c) Policies and procedures to ensure that—

(1) To the maximum extent appropriate, early intervention services are provided in natural environments; and

(2) The provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment only if early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(4), 1436(d))

[58 FR 40959, July 30, 1993, as amended at 63 FR 18295, Apr. 14, 1998]

### § 303.168 Comprehensive system of personnel development (CSPD).

Each application must include information to show that the requirements in § 303.360(b) are met.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(8))

**§ 303.169 Personnel standards.**

(a) Each application must include policies and procedures that are consistent with the requirements in § 303.361.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(9))

**§ 303.170 Procedural safeguards**

Each application must include procedural safeguards that—

(a) Are consistent with §§ 303.400 through 303.406, 303.419 through 303.425 and 303.460; and

(b) Incorporate either—

(1) The due process procedures in 34 CFR 300.506 through 300.512; or

(2) The procedures that the State has developed to meet the requirements in §§ 303.419, 303.420(b) and 303.421 through 303.425

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(13))

[58 FR 40959, July 30, 1993, as amended at 63 FR 18295, Apr. 14, 1998]

**§ 303.171 Supervision and monitoring of programs**

Each application must include information to show that the requirements in § 303.501 are met.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(10)(A))

**§ 303.172 Lead agency procedures for resolving complaints.**

Each application must include procedures that are consistent with the requirements in §§ 303.510 through 303.512.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(10))

**§ 303.173 Policies and procedures related to financial matters.**

Each application must include—

(a) Funding policies that meet the requirements in §§ 303.520 and 303.521;

(b) Information about funding sources, as required in § 303.522;

(c) Procedures to ensure the timely delivery of services in accordance with § 303.525; and

(d) A procedure related to the timely reimbursement of funds under this part, in accordance with §§ 303.527(b) and 303.528

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(10) (D) and (E) 1435(a)(12) 1440)

**§ 303.174 Interagency agreements; resolution of individual disputes.**

Each application must include—

(a) A copy of each interagency agreement that has been developed under § 303.523; and

(b) Information to show that the requirements in § 303.524 are met.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(10) (E) and (F))

**§ 303.175 Policy for contracting or otherwise arranging for services.**

Each application must include a policy that meets the requirements in § 303.526

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(11))

**§ 303.176 Data collection.**

Each application must include procedures that meet the requirements in § 303.540

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(14))

**PARTICIPATION BY THE SECRETARY OF THE INTERIOR**

**§ 303.180 Payments to the Secretary of the Interior for Indian tribes and tribal organizations.**

(a) The Secretary makes payments to the Secretary of the Interior for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior

(b)(1) The Secretary of the Interior shall distribute payments under this part to tribes or tribal organizations

## § 303.200

(as defined under section 4 of the Indian Self-Determination and Education Assistance Act), or combinations of those entities, in accordance with section 684(b) of the Act.

(2) A tribe or tribal organization is eligible to receive a payment under this section if the tribe is on a reservation that is served by an elementary or secondary school operated or funded by the Bureau of Indian Affairs ("BIA").

(c)(1) Within 90 days after the end of each fiscal year the Secretary of the Interior shall provide the Secretary with a report on the payments distributed under this section.

(2) The report must include—

(i) The name of each tribe, tribal organization, or combination of those entities that received a payment for the fiscal year;

(ii) The amount of each payment; and

(iii) The date of each payment.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1443(b))

### Subpart C—Procedures for Making Grants to States

## § 303.200 Formula for State allocations.

(a) For each fiscal year, from the aggregate amount of funds available under this part for distribution to the States, the Secretary allots to each State an amount that bears the same ratio to the aggregate amount as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

(b) For the purpose of allotting funds to the States under paragraph (a) of this section—

(1) *Aggregate amount* means the amount available for distribution to the States after the Secretary determines the amount of payments to be made to the Secretary of the Interior under § 303.203 and to the jurisdictions under § 303.204;

(2) *Infants and toddlers* means children from birth through age two in the general population, based on the most

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recent satisfactory data as determined by the Secretary; and

(3) *State* means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Authority: 20 U.S.C. 1443(c))

## § 303.201 Distribution of allotments from non-participating States.

If a State elects not to receive its allotment, the Secretary reallocates those funds among the remaining States in accordance with § 303.200(a).

(Authority: 20 U.S.C. 1443(d))

## § 303.202 Minimum grant that a State may receive.

No State receives less than 0.5 percent of the aggregate amount available under § 303.200 or \$500,000, whichever is greater.

(Authority: 20 U.S.C. 1443(c)(2))

## § 303.203 Payments to the Secretary of the Interior.

The amount of the payment to the Secretary of the Interior under § 303.180 for any fiscal year is 1.25 percent of the aggregate amount available to States after the Secretary determines the amount of payments to be made to the jurisdictions under § 303.204.

(Authority: 20 U.S.C. 1443(b))

## § 303.204 Payments to the jurisdictions.

(a) From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve up to 1 percent for payments to the jurisdictions listed in § 303.2 in accordance with their respective needs.

(b) The provisions of Pub. L. 95-134, permitting the consolidation of grants to the outlying areas, do not apply to funds provided under paragraph (a) of this section.

(Authority: 20 U.S.C. 1443(a))

[58 FR 40959, July 30, 1993, as amended at 63 FR 18295, Apr. 14, 1998]